

## **REMARKS**

Claims 1-59 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Section 102(a) Rejection:**

The Office Action rejected claims 1-15, 17-32, 34-43, 46-49 and 51-59 under 35 U.S.C. § 102(a) as being anticipated by Moir et al. (U.S. Publication 2003/0174572) (hereinafter “Moir”). **However, Moir is not prior art.** First, Moir was published on September 18, 2003 which is after the filing date of the present application. Thus, Moir is not prior art under § 102(a). Second, Moir is by the same inventive entity as the present application. Therefore, Moir does not qualify as prior art under any section of 35 USC § 102.

### **Section 103(a) Rejection:**

The Office Action rejected claims 16, 33 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Moir in view of Maged, et al. (“Non-Blocking Algorithms and Preemption-Safe Locking on Multiprogrammed Shared Memory Microprocessors,” March 1997) (hereinafter “Maged”). However, as noted above, Moir is not prior art. Moreover, even if Moir did qualify as prior art under § 102(e), at the time the claimed invention was made, the subject matter of Moir and the claimed invention were all owned by Sun Microsystems, Inc. or subject to an obligation of assignment to Sun Microsystems, Inc. Therefore, per 35 USC § 103(c), Moir could be used to reject Applicants’ claims under 35 USC § 103.

## CONCLUSION

Applicants submit the application is in condition for allowance, and an early notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/6000-33600/RCK.

Respectfully submitted,

/Robert C. Kowert/

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